

TWINPLAST LIMITED – CONDITIONS OF SALE

A larger font version of these Terms and Conditions is available upon request.

The customer's attention is drawn in particular to the provisions of clause 9.

1. **INTERPRETATION**
 - 1.1 **Definitions:**

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time.

Contract: the contract between Twinplast and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who orders and/ or purchases the Goods from Twinplast.

Force Majeure Event: an event or circumstance beyond a party's reasonable control including war, fire, accident, breakdown of plant or machinery, industrial action, disputes (including strikes and lockouts) unavailability of and restrictions on supply, non-delivery or delay in delivery of any materials or any other circumstances (of whatsoever nature and not limited to the foregoing) which directly or indirectly interrupt or hinder the due performance of the Contract.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form (in whatever format including by email).

Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and Twinplast.

Twinplast: Twinplast Limited (registered in England and Wales with company number 02056991).
 - 1.2 **Interpretation**
 - (a) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
 - (b) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
 - (c) A reference to **writing** or **written** includes emails.
2. **BASIS OF CONTRACT**
 - 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
 - 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
 - 2.3 The Order shall only be deemed to be accepted when Twinplast issues a written acceptance of the Order, at which point the Contract shall come into existence.
 - 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
 - 2.5 Any samples, drawings or advertising produced by Twinplast and any illustrations contained in Twinplast's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
 - 2.6 A quotation for the Goods given by Twinplast shall not constitute an offer and may be withdrawn by Twinplast at any time prior to Twinplast accepting the relevant Order in accordance with clause 2.3.
3. **GOODS**
 - 3.1 The Customer shall indemnify Twinplast against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) (**Losses**) suffered or incurred by Twinplast in connection with any claim made against Twinplast for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Twinplast's use of the Specification. This clause 3.1 shall survive termination of the Contract.
 - 3.2 Twinplast reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.
4. **DELIVERY**
 - 4.1 Twinplast shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time.
 - 4.2 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
 - 4.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Twinplast shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Twinplast with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If Twinplast fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 4.5 If Twinplast delivers up to and including 5.0% (or, in the case of Goods specifically manufactured to the Customer's Specification, 10%), more or less than the quantity of Goods ordered the customer may not reject them.
- 4.6 Twinplast may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
5. **QUALITY**
 - 5.1 Twinplast warrants that on delivery the Goods shall:
 - (a) conform with their description and any applicable Specification; and
 - (b) be free from material defects in design, material and workmanship.
 - (c) where the Customers Specification includes printing, conform to the minimum print standard agreed and approved by the Customer in advance of production, bearing in mind the limitations regarding colour matching and material surface smoothness.
 - 5.2 If:
 - (a) the Customer gives notice in writing to Twinplast within a reasonable period (but in any event within 48 hours) following delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - (b) Twinplast is given a reasonable opportunity of examining such Goods; and
 - (c) the Customer (if asked to do so by Twinplast) returns such Goods to Twinplast's place of business at the Customer's cost,

Twinplast shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
 - 5.3 Twinplast shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
 - (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
 - (b) the defect arises because the Customer failed to follow Twinplast's oral or written instructions, where given, as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (c) the defect arises as a result of Twinplast following any drawing, design or Specification supplied by the Customer;
 - (d) the Customer alters or repairs such Goods without the written consent of Twinplast;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
 - (f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
 - (g) there are minor deviations in colour of or finish to the Goods; or
 - (h) product tolerances are within the range specified in Twinplast's technical specifications (available on request).
 - 5.4 Except as provided in this clause 5, Twinplast shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
 - 5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
 - 5.6 These Conditions shall apply to any repaired or replacement Goods supplied by Twinplast.
6. **TITLE AND RISK**
 - 6.1 The risk in the Goods shall pass to the Customer on completion of delivery.
 - 6.2 Title to the Goods shall not pass to the Customer until the earlier of:
 - (a) Twinplast receives payment in full (in cash or cleared funds) for the Goods; and/ or
 - (b) the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.
 - 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Twinplast's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify Twinplast immediately if it becomes subject to any of the events listed in clause 8.1; and
 - (e) give Twinplast such information relating to the Goods as Twinplast may require from time to time.
 - 6.4 Subject to clause 6.7, the Customer may resell or use the Goods in the ordinary

6.5	course of its business (but not otherwise) before Twinplast receives payment for		
6.6	the Goods. However, if the Customer resells the Goods before that time title to the Goods shall pass from Twinplast to the Customer immediately before the time at which resale by the Customer occurs.	8.6	Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
6.7	If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.1, then, without limiting any other right or remedy Twinplast may have:	9.	LIMITATION OF LIABILITY
(a)	the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and	9.1	Nothing in these Conditions shall limit or exclude Twinplast's liability for:
(b)	Twinplast may at any time:	(a)	death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
(i)	require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and	(b)	fraud or fraudulent misrepresentation;
(ii)	if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.	(c)	breach of the terms implied by section 12 of the Sale of Goods Act 1979;
7.	PRICE AND PAYMENT	(d)	defective products under the Consumer Protection Act 1987; or
7.1	The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in Twinplast's price list in force as at the date of delivery published on the Company's web site from time to time.	(e)	any matter in respect of which it would be unlawful for Twinplast to exclude or restrict liability.
7.2	Twinplast may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:	9.2	Subject to clause 9.1:
(a)	any factor beyond Twinplast's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);	(a)	Twinplast shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
(b)	any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or	(b)	Twinplast's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the invoice price of the Goods.
(c)	any delay caused by any instructions of the Customer or failure of the Customer to give Twinplast adequate or accurate information or instructions.	(c)	The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded.
7.3	The price of the Goods:	9.3	All goods are sold by Twinplast and shall be accepted by the Customer upon the terms that no guarantee is given by Twinplast as to their quality and suitability or fitness for any particular purpose (even though the purpose may be known to Twinplast).
(a)	excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to Twinplast at the prevailing rate, subject to the receipt of a valid VAT invoice; and	10.	FORCE MAJEURE
(b)	excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer unless otherwise agreed.		Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for three months, Twinplast may terminate this Contract by giving 5 Business Days' written notice to the Customer.
7.4	Twinplast may invoice the Customer for the Goods on or at any time after the completion of delivery.	11.	GENERAL
7.5	The Customer shall pay the invoice in full and in cleared funds within 30 days following the month of the invoice. Payment shall be made to the bank account nominated in writing by Twinplast. Time for payment is of the essence.	11.1	Assignment and other dealings.
7.6	If the Customer fails to make any payment due to Twinplast under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 2.0% per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.	(a)	Twinplast may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
7.7	The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Twinplast may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Twinplast to the Customer.	(b)	The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Twinplast.
8.	TERMINATION	11.2	Entire agreement.
8.1	Without limiting its other rights or remedies, Twinplast may terminate this Contract with immediate effect by giving written notice to the Customer if:	(a)	This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
(a)	the Customer commits a material breach of any term of the Contract (or a material breach of any other extant contract between Twinplast and the Customer) and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of being notified in writing to do so;	(b)	Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
(b)	the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;	11.3	Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives) which shall include emails sent by an authorised representative of the party.
(c)	the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or	11.4	Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
(d)	the Customer's financial position deteriorates to such an extent that in Twinplast's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.	11.5	Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
8.2	Without limiting its other rights or remedies, Twinplast may suspend provision of the Goods under the Contract or any other contract between the Customer and Twinplast if the Customer becomes subject to any of the events listed in clause 8.1(a) to clause 8.1(d), or Twinplast reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.	11.6	Notices.
8.3	Without limiting its other rights or remedies, Twinplast may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.	(a)	Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its principal place of business or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier or email.
8.4	On termination of the Contract for any reason the Customer shall immediately pay to Twinplast all of Twinplast's outstanding unpaid invoices and interest.	(b)	A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.6(a); if sent by pre-paid first class post or other next working day delivery service, at 9:00 am on the two Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
8.5	Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.	(c)	The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
		11.7	Third party rights. No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

- 11.8 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 11.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.